

IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

|                          |   |                             |
|--------------------------|---|-----------------------------|
| EUGENE O'MALLEY          | : | JURY TRIAL DEMANDED         |
| Plaintiff                | : |                             |
|                          | : |                             |
| vs.                      | : |                             |
|                          | : | CASE NO.: 3:17-cv-01419-RDM |
| SUNDANCE VACATIONS, INC. | : |                             |
| Defendant                | : |                             |

AMENDED STIPULATED MOTION FOR CORRECTION OF DEFENDANT

Plaintiff Eugene O'Malley and defendant Dowd Marketing, Inc., through their undersigned counsel, respectfully move this Court for an Order correcting the named defendant in this matter. In support of this motion, the parties stipulate and state as follows:

1. Plaintiff initiated this action on August 11, 2017 by filing a Complaint naming Sundance Vacations, Inc. as the defendant. (Doc. 1).
2. Defendant Sundance Vacations, Inc. acknowledged on April 30, 2018 in its Rule 7.1 filing that plaintiff's former employer, and the proper defendant in this matter, is Dowd Marketing, Inc. (Doc. 36).
3. Plaintiff's claims against Dowd Marketing, Inc. arise out of the same conduct and occurrences and are the same as the claims previously alleged against Sundance Vacations, Inc.
4. Dowd Marketing, Inc. received notice of this action at the time it was initiated, and will not be prejudiced in defending on the merits.
5. Dowd Marketing, Inc. knew that this action would have been brought against it, but for a mistake as to the defendant's identity.
6. Donna A. Walsh, Esq. represents Dowd Marketing, Inc. and is authorized to enter into this Stipulation on behalf of Dowd Marketing, Inc.

WHEREFORE, pursuant to the foregoing stipulation, the parties respectfully request that this Honorable Court grant an order substituting Dowd Marketing, Inc. as defendant in this case in place of the original named defendant, dismissing Sundance Vacations, Inc. as a party and amending the caption to reflect the substitution.

Dated: 06/26/2018

/s/ George R. Barron  
George R. Barron, Esquire  
88 North Franklin Street  
Wilkes Barre, PA 18701  
[grb@georgebarronlaw.com](mailto:grb@georgebarronlaw.com)  
Counsel for Plaintiff

/s/ Donna A. Walsh  
Donna A. Walsh, Esquire  
Myers, Brier & Kelly, LLP  
425 Spruce Street  
Suite 200  
Scranton, PA 18503  
[dwalsh@mbklaw.com](mailto:dwalsh@mbklaw.com)  
Counsel for Defendant

## **CERTIFICATE OF SERVICE**

I, George R. Barron, hereby certify that a true and correct copy of the foregoing Amended Stipulated Motion for Correction of Defendant was served upon the following counsel of record via the Court's ECF system on this 26th day of June, 2018:

Donna A. Walsh, Esquire  
Myers, Brier & Kelly, LLP  
425 Spruce Street, Suite 200  
Scranton, PA 18503

/s/ George R. Barron